



DEPARTMENT OF THE ARMY

ST. PAUL DISTRICT, CORPS OF ENGINEERS
ARMY CORPS OF ENGINEERS CENTRE
190 FIFTH STREET EAST
ST. PAUL, MN 55101-1638

REPLY TO
ATTENTION OF

September 7, 2001

Construction-Operations
Regulatory (2001-07159-JJY)

Mr. Kelly J. Bopray
McCombs Frank Roos Associates, Inc.
15050 - 23rd Avenue North
Plymouth, Minnesota 55447

Dear Mr. Bopray:

We have reviewed the information you provided about a proposal by your client, the Charles Cudd Company, to discharge fill material in approximately 0.3 acre of unnamed wetland as part of the construction of the Medina Highlands development. The project site is in the NE 1/4 Sec. 12, T. 118 N., R. 23 W., City of Medina, Hennepin County, Minnesota, as shown on the attached drawings.

This jurisdictional determination takes into consideration the U.S. Supreme Court's decision in Solid Waste Agency of Northern Cook County v. Corps of Engineers (the SWANCC decision). The area encompassed by this jurisdictional determination includes two isolated wetlands that are approximately 0.15 acre and 2.5 acres in size.

Neither of the subject water bodies is a "water of the United States" because neither is: (1) a "navigable water" as defined by Federal law, (2) an interstate water, (3) part of a tributary system to (1) or (2), (4) a wetland adjacent to any of the foregoing, or (5) an impoundment of any of the above. In addition, the interstate commerce nexus to both of these particular water bodies is insufficient to establish Clean Water Act jurisdiction. These water bodies are therefore not subject to regulation by the Corps of Engineers under Section 404 of the Clean Water Act. Please note that a water that is not jurisdictional or navigable under Federal law may still be "jurisdictional" or "navigable" as defined by State law (and may therefore be subject to regulation by the State).

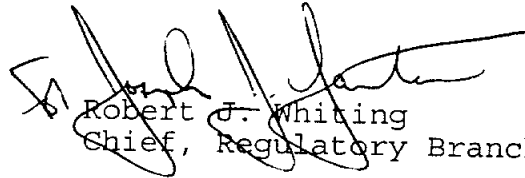
This jurisdictional determination is valid only for the project and waterbody referenced above. It is based on the Headquarters guidance available to us at this time.

PLEASE NOTE THAT THIS LETTER DOES NOT ELIMINATE THE NEED FOR OTHER FEDERAL, STATE, LOCAL, OR OTHER AUTHORIZATIONS (SUCH AS THOSE OF THE DEPARTMENT OF NATURAL RESOURCES, CITY, OR WATERSHED DISTRICT).



If you have any questions, contact Joseph J. Yanta in our St. Paul office at (651) 290-5362. In any correspondence or inquiries, please refer to the Regulatory number shown above.

Sincerely,


Robert J. Whiting
Chief, Regulatory Branch

Enclosures